

**Department of Marine Resources**  
**NOTICE OF AGENCY RULE-MAKING PROPOSAL**

**RULE TITLE OR SUBJECT:** Chapter 55.90 Menhaden Pilot Program

**CONCISE SUMMARY:**

A pilot project is proposed that would limit the take and possession of Atlantic menhaden in three areas in Southern Maine. The largest area would be shoreward from Cape Elizabeth to Small Point; and two smaller areas would be shoreward from Bald Head Cliff to Cape Arundel and Biddeford Pool to Cape Elizabeth. In all areas menhaden harvester vessels would be limited to 50 feet; carrier vessels greater than 70 feet would have their holds measured, marked at a maximum 250,000 lb capacity and sealed; in the two smaller areas the daily catch limit would be 250,000 lb per harvester and carrier vessels; and in the larger area the daily catch limit would be 250,000 lb per carrier vessels only. This rule would sunset June 1, 2010 and the Commissioner would have the authority to waive all of these rules in the event of a potential fish kill.

**TATUTORY AUTHORITY:** 12 M.R.S.A. §6171

**PUBLIC HEARINGS:**

**June 16, 2009, 6:00pm,** Scarborough Municipal Bldg, Chamber A, 259 Route 1, Scarborough

**June 18, 2009, 6:00pm,** Yarmouth Town Hall, Community Rm, 200 Main St, Yarmouth

*\*The public hearings for two proposed rules will be held in the order starting with the rules proposed in Chapter 55.90, followed by Chapter 41. The second hearing will be held immediately upon the conclusion of the previous hearing. See separate rulemaking notice for the rule not listed in this notice.*

**DEADLINE FOR COMMENTS:** June 29, 2009

*To ensure consideration, comments must include your name and the organization you represent, if any. Please be aware that any risk of non-delivery associated with submissions by fax or e-mail is on the sender.*

**AGENCY CONTACT PERSON:** Lt. Jon Cornish (207-633-9595)

**Mail Written Comments to:**

**AGENCY NAME:**

Department of Marine Resources, attn L. Churchill

**ADDRESS:**

PO Box 8, West Boothbay Harbor, Maine 04575-0008

**WEB SITE:**

<http://www.maine.gov/dmr/rulemaking/>

**E-MAIL:**

[laurice.churchill@maine.gov](mailto:laurice.churchill@maine.gov)

**FAX:**

(207) 633-9579

**TTY:**

(207) 633-9500 (Deaf/Hard of Hearing)

**Hearing facilities:**

If you require accommodations due to disability, please contact Amanda Beckwith, at (207) 287-7578.

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**Additional information:**

*Three proposed restricted areas are recognized as very active sport fishing territory in southern Maine where charter boats, recreational fishermen and tide water guides fish striped bass seasonally. Since the striped bass forage on menhaden the recreational sector has requested leaving 25-30% of the menhaden in these areas due to their importance to their industry. The proposed regulations would restrict the amount of menhaden take on a daily basis by purse seiners in the bait industry; and place effort restrictions on the vessel sizes to impact efficiency, thereby controlling effort. Smaller seiners can access all of these areas however since they are not as efficient as the larger vessels the limitations would reduce effort and therefore leave some of the menhaden resource behind.*

*The objectives and potential rules were discussed at a meeting held April 29, 2009 attended by purse seiners, charter boat captains and representatives of Maine's Coastal Conservation Association. Purse seiners must hold a commercial fishing license.*

**Proposed rulemaking – see underlined or ~~deleted~~ text below (next page):**

## Chapter 55 - Gear Restrictions

### 55.90 Menhaden Pilot Program

#### 1. Areas

##### A. Bald Head Cliff to Cape Arundel

Shoreward and westerly of a straight line starting at the easternmost point of Bald Head Cliff, Ogunquit to the southernmost point of Cape Arundel, Kennebunkport.

##### B. Biddeford Pool to Cape Elizabeth

Shoreward and westerly of the territorial sea line, as identified on National Oceanic and Atmospheric Administration nautical chart 13286, starting at the easternmost point of Biddeford Pool, Biddeford following the territorial sea line to where the line intersects the southernmost point of land in Cape Elizabeth.

##### C. Cape Elizabeth to Small Point

Shoreward and northerly of the (irregular, not straight) "COLREGS DEMARCATION LINE" as identified on National Oceanic and Atmospheric Administration nautical chart 13290, starting at Portland Head Light, Cape Elizabeth following the COLREGS line to Bald Head, Cape Small, Phippsburg.

#### 2. Area Limitations

The areas in Chapter 55.90(1)(A, B & C) are restricted to the take, possession and transport of the Atlantic menhaden in accordance with the following regulations:

##### A. Limitations in Area C

(1) Carrier Vessel Daily Limit - It shall be unlawful for carrier vessels to possess greater than 250,000 pounds (lb) of menhaden per day.

For purposes of this section (Chapter 55.90) "daily catch" means a maximum of 250,000 lbs of menhaden possessed or loaded aboard from these areas between 00:01 AM to 11:59 PM.

##### B. Limitations in Areas A & B

(1) Harvester and Carrier Vessel Daily Catch Limit - It shall be unlawful for harvester vessels and carrier vessels to catch and possess greater than 250,000 lbs of menhaden per day.

##### C. Limitations in all Areas A, B & C

(1) It shall be unlawful for any harvester vessel that exceeds 50 feet in length overall to fish for, take or possess menhaden within these restricted areas.

(2) Any carrier vessel greater than 70 feet in length overall transporting menhaden harvested from these areas must be measured, plainly marked at a maximum 250,000 lb capacity, and sealed by the State Sealer of Weights and Measures. This documentation must be obtained as of [the effective date of this regulation] and prior to transporting menhaden taken from these areas.

(3) Carrier vessels may load menhaden on two consecutive days before off loading provided that the Maine Marine Patrol, Division I Office (telephone (207) 633-9596) is contacted prior to loading the second day's daily catch.

Any vessel opting to load on two consecutive days must have the holds measured to indicate both maximum 250,000 and 500,000 lb capacities, plainly marked at each capacity, and sealed by the State Sealer of Weights and Measures. This documentation must be obtained as of [the effective date of this regulation] and prior to transporting menhaden taken from these areas.

#### 3. Suspension of rules

The Commissioner has the authority to suspend all regulations in Chapter 55.90 in the event of a potential fish kill upon consultation with industry and Marine Patrol. Notice of rule suspension and duration shall be provided via the internet on the Department's web site and by email to industry members or telephone.

#### 4. This regulation expires June 1, 2010.